REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.111 and in light of the remarks which follow, are respectfully requested.

By the above amendments, the specification has been amended to correct various minor typographical errors. Claim 1 has been amended for clarification purposes, and now recites "A biaxial liquid crystal composition comprising at least one liquid crystal compound which develops a liquid crystal phase whose refractive indexes in directions of three axes are different from each other." Support for this amendment can be found in the instant specification at least at page 7, lines 1-8. In addition, claim 10 has been amended to correct a typographical error.

In the Official Action, claim 1 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Withdrawal of this rejection is respectfully requested for at least the following reasons.

As grounds for rejecting claim 1 as being indefinite, the Patent Office has noted that the phrase "which is capable of developing a biaxial liquid crystal phase" recited in claim 1 constitutes functional claim language. In this regard, as discussed in M.P.E.P. §2173.05(g), it is well established that "[t]here is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper." Thus, it is apparent that the mere recitation of functional language in claim 1 does not render such claim indefinite.

In view of the above, it is apparent that claim 1 fully complies with the provisions set forth in the second paragraph of 35 U.S.C. §112. Accordingly, withdrawal of the above rejection is respectfully requested.

Claims 1-15 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,657,690 (*Hashimoto*). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Independent claim 1 is directed to a biaxial liquid crystal composition comprising at least one liquid crystal compound which develops a liquid crystal phase whose refractive indexes in directions of three axes are different from each other and a refractive index-controlling agent, which is capable of developing a biaxial liquid crystal phase, and has a value of (nx-ny)/(ny-nz) and a value of (nx0-ny0)/(ny0-nz0) different from each other wherein nx, ny and nz respectively represent refractive indexes along directions of three axes of the biaxial liquid crystal composition in an order of magnitude, and nx0, ny0 and nz0 respectively represent refractive indexes along directions of three axes of the biaxial composition obtained by excluding the refractive index-controlling agent from the biaxial liquid crystal composition in an order of magnitude.

Hashimoto relates to an optical compensatory sheet comprising an optically uniaxial or optically biaxial transparent stretched film (col. 1, lines 8-10). *Hashimoto* discloses that the optical compensatory sheet comprises the transparent stretched film and an optically anisotropic layer formed from liquid crystal molecules (col. 1, lines 10-13).

Hashimoto does not disclose or suggest each feature recited in independent claim 1. For example, *Hashimoto* does not disclose or suggest a biaxial liquid crystal composition comprising at least one liquid crystal compound which develops a liquid crystal phase whose refractive indexes in directions of three axes are different from each other and a refractive index-controlling agent, as recited in claim 1. That is, according to claim 1, both a liquid crystal compound which develops a liquid crystal phase whose refractive indexes in directions of three axes are different from each other, and a refractive index-controlling agent

are present in a single biaxial liquid crystal composition. As discussed in the instant specification, the biaxial liquid crystal composition can be used, for example, to form an optically anisotropic layer. *Hashimoto*, on the other hand, simply has no disclosure or suggestion of a liquid crystal compound which develops a liquid crystal phase whose refractive indexes in directions of three axes are different from each other, and a refractive index-controlling agent being present in a single biaxial liquid crystal composition.

For at least the above reasons, it is apparent that no *prima facie* case of obviousness exists. Accordingly, withdrawal of the §103(a) rejection is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: December 28, 2006 By: _____

Roger H. Lee
Registration No. 46317

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620